



Docket No. 0263-4045US3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): YAMAZAKI et al.

Group Art Unit: 1654

Serial No.: 10/674,446

Examiner: Jeffrey E. RUSSEL

Filed: September 29, 2003

For: ERYTHROPOEITIN SOLUTION PREPARATION

**TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(C)
TO OBVIATE PROVISIONAL DOUBLE PATENTING REJECTION**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Identity of Assignee

The petitioner, Chugai Seiyaku Kabushiki Kaisha, having a business address at 5-1 Ukima 5-Chome, Kita-ku, Tokyo, 115-0051, Japan is the owner of the entire right, title and interest in the above-identified application, Serial No. 10/674,446, by virtue of an assignment recorded on December 17, 1998, at Reel/Frame No(s) 9647/0722. The petitioner is also the owner of the entire, right, title and interest in U.S. Patent No. 6,120,761; 6,277,367; and 6,627,187.

Identification of Person(s) Making This Disclaimer

Name of disclaimant: Joseph D. Eng Jr.

Disclaimant represents that he is a Registered Patent Attorney, Registration No. 54,084, and an Attorney of Record for the above-identified application, and authorized to sign on behalf of the assignee identified above.

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Extent of Interest

The extent of assignee's interest is in the whole of this invention.

Statement Under 37 C.F.R. §3.73(b)

The undersigned Disclaimant has reviewed all the documents in the chain of title of the patent application identified above and, to the best of his knowledge and belief, title is in the assignee identified above.

Disclaimer

The petitioner, through its Attorney of Record, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, of United States Patent No. 6,277,367. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and United States Patent 6,277,367 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of U.S. Patent 6,277,367, in the event that U.S. Patent 6,277,367 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or

terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Fee Status

(37 C.F.R. 1.20(d) and 37 C.F.R. 1.321)

- ☒ large entity--fee \$130.00
☐ small entity--fee \$65.00

Fee Payment

- ☐ Attached is a check in the sum of \$
☒ Charge Deposit Account **13-4500**, Order No. 0263-4045US3 any fee required by this paper.

AUTHORIZATIONS:

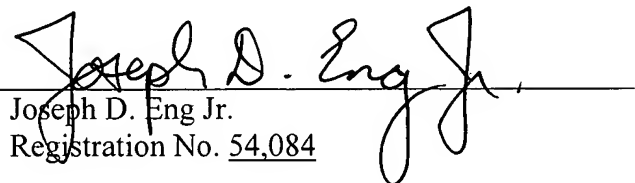
The Commissioner is hereby authorized to charge any additional fees which may be required for timely consideration of this Terminal Disclaimer under 37 C.F.R. §§1.16 -§1.20 or credit any overpayment to Deposit Account No. **13-4500**, Order No. 0263-4045US3. A

DUPLICATE COPY OF THIS DISCLAIMER IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: September 28, 2005

By:


Joseph D. Eng Jr.
Registration No. 54,084

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